

COUNTY OF COOK)
)
STATE OF ILLINOIS)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CHARLOTTE HORTON, as guardian of Anna R. Richardson,

Plaintiff,

vs.

COUNTRY MORTGAGE SERVICES, INC.; *et al.*,

Defendants.

2007 CV 6530

Judge Lindberg

Magistrate Nolan

AFFIDAVIT OF RONALD D. MENNA, ESQ.

RONALD MENNA, being first duly sworn on oath, deposes and states as follows:

1. I am an attorney licensed to practice law in the State of Illinois since 1988, am a shareholder of Fischel & Kahn, Ltd., was admitted to practice in this Court in January 1989, was admitted to this Court's Trial Bar in March 1994, and have been the attorney primarily responsible for the representation of Defendant, COUNTRY MORTGAGE SERVICES, INC. ("CMSI"), in the above-captioned matter since December 2007. This affidavit is given in support of CMSI's Petition for Attorneys' Fees.

2. In addition to me, attorney David W. Inlander has rendered services on behalf of CMSI with respect to the dismissal of Count IV of the Second Amended Complaint and the Second FRCP 11 Motion for Sanctions. At all time relevant hereto, Mr. Inlander was and is an attorney duly licensed to practice law in the State of Illinois.

3. In preparing this Affidavit I reviewed those portions of Fischel & Kahn,

EXHIBIT "1"

Ltd.'s billing records relating to the dismissal of Count IV of the Second Amended Complaint and the Second FRCP 11 Motion for Sanctions, which indicate the attorney providing service, the date of the service, the amount of time allocated to the service, the billing rate and charge for the service, and a detailed description of the services performed.

4. During the time relevant hereto Fischel & Kahn, Ltd., Mr. Inlander's billing rate was \$ 325.00 per hour, and his time is indicated on Fischel & Kahn, Ltd.'s billing records with the initials "DWI". My billing rate was and is \$ 250.00 per hour and my time is indicated on Fischel & Kahn, Ltd.'s billing records with the initials "RDM".

5. The foregoing billing rates are reasonable and appropriate in light of the degree of skill required to handle this matter and are consistent with the usual and ordinary practice in the United States District Court for the Northern District of Illinois.

6. The billing records reviewed to support this Affidavit are business records of Fischel & Kahn, Ltd. Those billing records were prepared in the ordinary course of the business of Fischel & Kahn, Ltd. by individuals with personal knowledge of the entries, and the records are maintained in the files of Fischel & Kahn, Ltd. in the ordinary course of its business.

7. As reflected on the billing records of Fischel & Kahn, Ltd., and based upon my notes and recollection, CMSI incurred attorneys' fees "with respect to the portion of the motion to dismiss the second amended complaint that concerns the ICFA claim", and with respect to the Second FRCP 11 Motion for Sanctions as it concerned the ICFA claim in Count IV of the SAC as follows:

<u>Date</u>	<u>Atty</u>	<u>Description</u>	<u>Time</u>	<u>Amount</u>
04/21/2008	RDM	Review and analyze Second Amended Complaint (1.00); correspondence re: same (0.20); begin to draft Motion to Dismiss (0.70)	1.90	\$475.00
04/24/2004	RDM	Drafting Motion to Dismiss 2 nd Amended Complaint (0.50) and Motion for Sanctions (0.25)	0.75	187.50
05/08/2008	RDM	Drafting Motion for Rule 11 Sanctions (0.50) and Motion to Dismiss 2 nd Amended Complaint (0.50)	1.00	250.00
05/09/2008	RDM	Drafting Motion to Dismiss (0.80) and Motion for Sanctions (0.50)	1.30	325.00
05/12/2008	RDM	File motion to dismiss electronically (0.25); draft transmittal letter re: motion for sanctions (0.25); correspondence re: same (0.25)	0.75	187.50
05/14/5008	RDM	Review and analyze order re: briefing schedule on our motion to dismiss and 06/25/2008 ruling (0.40); correspondence re: same (0.10)	0.50	125.00
05/29/2008	RDM	Review and analyze Horton's Response to our motion to dismiss (0.50); correspondence re: same (0.10)	0.60	150.00
05/30/2008	RDM	Drafting Reply in support of Motion to Dismiss	1.00	250.00
06/02/2008	RDM	Drafting Reply in Support of motion to dismiss	1.00	250.00
06/03/2008	RDM	Drafting Reply in support of motion to dismiss	1.40	350.00
06/04/2008	RDM	Drafting Reply in support of our motion to dismiss	1.00	250.00

<u>Date</u>	<u>Atty</u>	<u>Description</u>	<u>Time</u>	<u>Amount</u>
06/05/2008	RDM	Revise Reply in Support of our Motion to Dismiss (0.65); electronically file same (0.25); drafting affidavit in support of motion for sanctions (0.50)	1.40	350.00
06/05/2008	DWI	Review Motions	0.25	0.00
06/06/2008	RDM	Revise and electronically file motion for Sanctions and Affidavit of Compliance	1.40	3.50
06/23/2008	RDM	Review and analyze orders setting date on our motion to dismiss and briefing schedule on our motion for sanctions	0.40	100.00
06/24/2008	RDM	Review and analyze order resetting ruling date on our motion to dismiss	0.20	50.00
06/25/2008	RDM	Prepare for and attend status hearing; enter order setting 08/23/2008 ruling on our motion to dismiss and our motion for sanctions	1.00	500.00
07/10/2008	RDM	Review and analyze Plaintiff's response to our motion for sanctions; correspondence re: same; begin to draft reply	5.50	1,375.00
07/11/2008	RDM	Office conference with DWI re: our reply to our motion for sanctions	0.20	50.00
07/15/2008	RDM	Revise reply in support of our motion for sanctions	1.25	312.50
07/16/2008	RDM	Revise and electronically file our reply in support of our motion for sanctions	0.50	125.00
07/29/2008	RDM	Review and analyze order re: new ruling date on our motion to dismiss	0.20	50.00
07/30/2008	RDM	Review and analyze order re: our motion to dismiss	0.30	150.00

<u>Date</u>	<u>Atty</u>	<u>Description</u>	<u>Time</u>	<u>Amount</u>
08/11/2008	RDM	Review and analyze order re: our motion for sanctions	0.30	150.00
08/18/2008	RDM	Begin drafting Petition for Attorneys' Fees and Affidavit in Support	2.00	500.00
08/20/2008	RDM	Revise Petition for Attorneys' Fees and Affidavit in Support; electronically file same	2.25	562.50

8. The attorneys' fees incurred in connection with the above-matters through August 20, 2008, total \$ 7,078.50, as represented on the billing records attached to this Affidavit.

9. No costs incurred in connection with the above-matters as represented on the billing records.

10. All of the attorneys' fees and costs sought to be reimbursed herein were incurred as the direct result of the filing of the sanctionable Count IV of Plaintiff's Second Amended Complaint.

11. The foregoing attorneys' fees are reasonable and appropriate in light of the degree of skill required to handle this matter and are consistent with the usual and ordinary practice in the United States District Court for the Northern District of Illinois.

12. Accordingly, pursuant to this Court's August 11, 2008, Memorandum Opinion and Order and FRCP 11(c), CMSI is seeking a total of \$ 7,078.50 from Lloyd Brooks, Plaintiff's attorney, and from The Brooks Law Firm, Plaintiff's attorney's law firm.

13. I am over 18 years of age and, if called, would competently testify to the foregoing based upon personal knowledge.

14. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on August 20, 2008.

AFFIANT FURTHER SAYETH NAUGHT.

Respectfully submitted,
COUNTRY MORTGAGE SERVICES, INC.

By: /s/ Ronald D. Menna, Jr.
One of Its Attorneys

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